

PUBLIC SERVICE COMMISSION OF WISCONSIN

Minutes and Informal Instructions of the Open Meeting of
Thursday, March 12, 2009

The Public Service Commission of Wisconsin (Commission) met as noticed. Present were Chairperson Callisto, Commissioner Meyer, and Commissioner Azar.

6720-TI-218 – Wisconsin Bell, Inc., d/b/a AT&T Wisconsin's Infrastructure Incentive Plan for Calendar Year 2009

The Commission approved the Notice of Investigation and directed it be signed by the Secretary to the Commission on behalf of the Commission.

1890-WR-102 – Application of Fairchild Municipal Water Utility, Eau Claire County, Wisconsin, for Authority to Increase Water Rates

The Commission approved the Notice of Proceeding and Telephonic Hearing and directed it be signed by the Secretary to the Commission on behalf of the Commission.

3240-CW-101 – Application of Luxemburg Municipal Water Utility, Kewaunee County, Wisconsin, to Construct a New Well

The Commission approved the Notice of Investigation and directed it be signed by the Secretary to the Commission on behalf of the Commission.

4120-WR-103 – Application of City of New Lisbon Electric and Water Utility, Juneau County, Wisconsin, for Authority to Increase Water Rates

The Commission approved the Notice of Proceeding and Telephonic Hearing and directed it be signed by the Secretary to the Commission on behalf of the Commission.

5-CE-137 – Application of Wisconsin Power and Light Company and Wisconsin Electric Power Company for a Certificate of Authority to Install a Selective Catalytic Reduction System for Nitrogen Oxide Removal on Unit 5 at the Edgewater Generating Station, Sheboygan County, Wisconsin

1-IC-410 – Application for Intervenor Compensation filed by Clean Wisconsin and Citizens' Utility Board for \$143,075 to Participate in Docket 5-CE-137

1-IC-411 – Application for Intervenor Compensation filed by Sierra Club John Muir Chapter for \$125,170 to Participate in Docket 5-CE-137

The Commission modified and approved the joint request filed on behalf of Clean Wisconsin and the Citizens' Utility Board for intervenor compensation, awarding the amount of \$74,790, to

participate in the application of Wisconsin Power and Light Company and Wisconsin Electric Power Company for authority to construct selective catalytic reduction facilities and associated equipment at the Edgewater Power Plant Unit 5.

The Commission modified and approved the request filed on behalf of the Sierra Club, John Muir Chapter, for intervenor compensation, awarding the amount of \$63,410, to participate in the application of Wisconsin Power and Light Company and Wisconsin Electric Power Company for authority to construct selective catalytic reduction facilities and associated equipment at the Edgewater Power Plant Unit 5.

Commissioner Azar dissented as to the rate reduction from \$180 to \$175 per hour awarded for legal services to be provided in connection with the Sierra Club request.

The Commission directed the Gas and Energy Division to draft an order consistent with its discussion.

9385-TI-100 – Petition of TracFone Wireless, Inc., for Designation as an Eligible Telecommunications Carrier in the State of Wisconsin

Review of Application and Consideration of Issues

This item was laid over at the request of the Commission.

The Commission adjourned the meeting at 10:44 a.m.

Sandra J. Paske
Secretary to the Commission

PUBLIC SERVICE COMMISSION OF WISCONSIN

Memorandum

February 27, 2009

FOR COMMISSION AGENDA

TO: The Commission

FROM: Robert Norcross, Administrator
Jim Lepinski, Docket Coordinator
Gas and Electric Division

Sarah Klein, Administrator
Gordon Grant, Assistant Administrator
Division of Administrative Services

RE: Application of Wisconsin Power and Light Company and
Wisconsin Electric Power Company for a Certificate of
Authority to Install a Selective Catalytic Reduction System
for Nitrogen Oxide Removal on Unit 5 at the Edgewater
Generating Station, Sheboygan County, Wisconsin

5-CE-137

Application for Intervenor Compensation filed by Clean
Wisconsin and Citizens' Utility Board for \$143,075 to
Participate in Docket 5-CE-137

1-IC-410

: Application for Intervenor Compensation Filed by Sierra
Club John Muir Chapter for \$125,170 to Participate in
Docket 5-CE-137

1-IC-411

Suggested Minute: The Commission (approved/modified/denied) the request of Clean Wisconsin and Citizens' Utility Board for \$143,075 in intervenor compensation to participate in Wisconsin Power and Light Company's and Wisconsin Electric Power Company's application for authority to construct selective catalytic reduction facilities and associated equipment at the Edgewater Power Plant Unit 5.

Suggested Minute: The Commission (approved/modified/denied) the request of Sierra Club John Muir Chapter for \$125,170 in intervenor compensation to participate in Wisconsin Power and Light Company's and Wisconsin Electric Power Company's application for authority to construct selective catalytic reduction facilities and associated equipment at the Edgewater Power Plant Unit 5.

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Introduction

On November 14, 2008, pursuant to Wis. Stat. § 196.49 and Wis. Admin. Code ch. PSC 112, Wisconsin Power and Light Company (WP&L) and Wisconsin Electric Power Company (WEPCO) (together, Applicants) filed an application with the Commission for authority to construct selective catalytic reduction (SCR) facilities and associated equipment on Unit 5 of the existing Edgewater Power Plant. That application was re-filed on December 15, 2008, by WP&L. WEPCO submitted a supplemental application on December 18, 2008, and the Commission is reviewing the application in docket 5-CE-137. A Notice of Proceeding was issued on December 18, 2008, and a Notice of Prehearing Conference was issued on January 28, 2009. The prehearing conference was held on February 25, 2009. A joint request to intervene filed by Clean Wisconsin (Clean WI) and Citizens' Utility Board (CUB) (together, CW/CUB), as well as a request to intervene filed by Sierra Club, were both granted at the prehearing conference.

On February 13, 2009, CW/CUB filed a request for \$143,075 in intervenor compensation (IC) to participate in this docket. CW/CUB propose to work together in their intervention in this docket. On February 25, 2009, Sierra Club filed a request for \$125,170 in IC to participate in the same docket.

Intervenors' Work Plans

CW/CUB propose to analyze the utilities' project from the perspective of the residential rate class and the environment. A summary of CW/CUB's work plan and budget is included below:

Description		Amount
Clean WI's internal expenditures	68 hours at approximately \$85 per hour	\$5,780
CUB's internal expenditures	66 hours at approximately \$76 per hour	\$5,010
Legal services from Cullen, Weston, Pines, and Bach (CWPB) and expenses	241 hours at \$175 per hour	\$42,425
Economic impact analysis by La Capra Associates	336 hours at \$110-\$200 per hour	\$57,860
Environmental issues by David Schoengold, MSB Energy Associates	256 hours at \$125 per hour	\$32,000
Total Request		\$143,075

Sierra Club proposes to analyze the proposed project from the perspectives of cost and the environment. A summary of Sierra Club's work plan is included below:

Description		Amount
Sierra Club's internal expenditures, including witness travel and lodging		\$4,410
Legal services from Garvey McNeil and McGillivray S.C. and expenses	216 hours at \$180 per hour	\$38,880
Engineering analysis by Dr. Phyllis Fox, PhD, P.E.	355 hours at approximately \$111 per hour	\$39,380
Analysis of EGEAS modeling by Synapse Energy Economics, Inc.	256 hours averaging approximately \$166 per hour	\$42,500
Total Request		\$125,170

CW/CUB's consultant, La Capra Associates, Inc., proposes to review and evaluate the utilities' modeling assumptions, power market, and financial modeling of the project. MSB Energy Associates consultant Mr. David Schoengold proposes to address several areas, including: whether the utilities have selected the best alternative to comply with the environmental regulations; what the projected carbon emissions would be; and what additional measures may be needed to comply with future regulations.

Sierra Club's consultant, Dr. Phyllis Fox, PhD, P.E. proposes to provide engineering analysis and testimony to demonstrate the alternatives to the proposed project. Synapse Energy Economics, Inc. (Synapse) proposes to examine whether there are lower-cost alternatives to the

project as proposed, and to review the reasonableness of the economic and modeling alternative analyses prepared by the applicants.

Eligibility for Compensation

Wis. Admin. Code § PSC 3.02(1) establishes five conditions for determining eligibility to receive IC. Under that rule, a person seeking IC must meet all of the following conditions:

- PSC 3.02** (1)(a) A customer of the utility which is the subject of the proceeding; or someone who may be materially affected by the outcome of the proceeding.
(b) Someone for whom full intervention in the proceeding would cause significant financial hardship without compensation from the Commission.
(c) Someone who represents an interest material to the proceeding, which but for award of compensation would not be adequately represented.
(d) Someone whose interest must be represented for a fair determination in the proceeding.
(e) Someone who has been granted full party status and who will participate in the proceeding as a full party.

CW/CUB and Sierra Club state that they do not have adequate income from other sources to accomplish their intervention. CW/CUB believe that their members may be materially affected by the outcome of the proceeding. Sierra Club states that it does not have sufficient funds from other sources to participate in important dockets before the Commission without IC. Both CW/CUB and Sierra Club maintain that their interest is material to the proceeding, requires an award of compensation for adequate representation, and represents the interests of their membership to ensure a full and fair determination.

Analysis

CUB/CW propose to review and provide testimony on seven areas identified in their IC application, including:

- Have the utilities properly modeled the capital costs and future operation and maintenance costs of the Edgewater units with and without the installation of the Environmental Facilities in its economic justification of the proposed investment?

- Did WP&L and WEPCO include appropriate costs for future environmental compliance at the Edgewater units and other WP&L and WEPCO units in their economic evaluations?
- Have WP&L and WEPCO accurately determined the impact of the proposed environmental facilities on the operation of their plants in the Midwest Independent Transmission System Operator, Inc. energy market?
- What are WP&L's and WEPCO's outlooks for the supply and demand balance for electric capacity annually over the planning horizon? Are the Edgewater units needed to meet the needs of electric consumers in Wisconsin?
- Are WP&L and WEPCO planning future capacity additions that could affect the value of the Edgewater units to their respective customers? Has this new capacity been properly modeled? What other capacity assumptions have been made by WP&L and WEPCO over the planning horizon?
- Did WP&L and WEPCO appropriately consider alternatives to investing in the proposed environmental facilities, including but not limited to, the retirement of these units and replacement with newer, more efficient capacity or investments in energy efficiency?
- Have WP&L and WEPCO appropriately considered the implied costs and value of future emissions in its economic evaluations?

(Application, pages 4-5.)

Sierra Club proposes to review and provide testimony regarding four issues identified in its IC application, including:

- Whether the Applicants have reasonably projected their future energy needs, including a review of the 2007 IRP relied upon by WP&L in its application.
- Whether retirement of Unit 3 and replacement power is likely to cost less than the \$150,000,000 SCR that the Applicants propose to install.
 - This includes a showing that the "all-in" cost of retirement vs. pollution controls includes the realistic future cost of CO₂ emissions, which is expected to add to the economic analysis favoring retirement.
- Whether retirement of Unit 3 and (if additional energy is needed) replacement with other generation (likely a combination of efficiency, renewable generation, gas-fired generation, and other generation) is preferred in the Energy Priorities Law, Wis. Stat. §§ 1.12, 196.025, to continuing to operate the 100 percent coal-fired Unit 3 and retrofitting Unit 5.
- Whether the cost, in NPVRR, of retiring the smaller Unit 3 (and if necessary limiting operation of Units 4 or 5) is a more cost-effective method, in the public interest, of complying with the RACT limits than retiring Unit 5, which was rejected by WP&L as too costly based on the EGEAS runs they have reported.

(Application, pages 4-5.)

The utilities and Commission staff are likely to provide testimony on the topics proposed to be covered by both CW/CUB and Sierra Club. However, given the potential rate impacts of the \$153,944,000 project cost, the uncertainty of future air emissions requirements, and the perspectives of the intervenors, it is possible that testimony financed with IC funds could be of value to the Commission as it makes its decision in this docket.

Clean WI and CUB also applied for, and were granted, IC in docket 6630-CE-299, which was decided by the Commission in July 2008. In that docket, the Commission authorized WEPCO to construct wet flue gas desulfurization and SCR facilities at its Oak Creek Power Plant, Units 5 through 8. In the accompanying IC docket 1-IC-393, the Commission awarded Clean WI and CUB the amount of \$120,000 of a total of \$159,198 requested. A major difference between the projects, however, is that the estimated cost of the Oak Creek facilities was \$830,000,000, more than five times the estimated cost of the currently-proposed Edgewater project. In addition, some of the Joint Intervenors' analysis from the Oak Creek docket may apply to this docket, and would only need to be introduced into this record.

Sierra Club proposes to use the services of Synapse in this docket. In docket 6680-CE-170, which was decided by the Commission in November 2008, the Commission awarded IC to Clean WI and CUB. In the accompanying IC dockets 1-IC-394 and 1-IC-395, CUB and Clean WI were authorized \$63,960 and \$75,000 for Synapse' services, respectively. This would suggest some reduction in the Sierra Club's request because Synapse may have already developed some of the base work needed to participate in this docket.

In addition, both CW/CUB and Sierra Club propose to provide analysis of the estimated costs and EGEAS modeling of the Edgewater Unit 5 SCR project. As such, there may be some

duplication between the intervenors' analyses, which would suggest a reduction in the amounts requested. Additionally, Commission staff is likely to provide analysis in these areas as well.

Commission Alternatives (CW/CUB)

Alternative One: Fully fund the CW/CUB IC request at a cost of \$143,075 because CW/CUB could provide a perspective that would otherwise not be available to the Commission.

Alternative Two: Partially fund the CW/CUB IC request at a reduced level commensurate with the estimated project cost.

Alternative Three: Deny the request in its entirety due to the potential for too much duplication of Commission staff's effort.

Commission Alternatives (Sierra Club)

Alternative One: Fully fund the Sierra Club IC request at a cost of \$125,170 because Sierra Club could provide a perspective that would otherwise not be available to the Commission.

Alternative Two: Partially fund the Sierra Club IC request at a reduced level commensurate with the estimated project cost.

Alternative Three: Deny the request in its entirety due to the potential for too much duplication of Commission staff's effort.

Intervenor Compensation Fund

The IC fund has a balance of \$565,171 available to fund requests between now and June 30, 2009. If the Commission were to fully fund the requests of CW/CUB and Sierra Club, a total of \$296,926 would remain unallocated. No other requests for funding are currently pending. Attachment 1 provides a summary of the Commission IC fund history for this current fiscal year.

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Attachment

FISCAL YEAR 2009 INTERVENOR FINANCING REPORT

Intervenor Docket #	PSC Docket #	INTERVENOR	Date Rqstd	Amount Rqstd	Amount Appvd	
1-IC-404	6680-UR-116	Sierra Club	6/13/2008	114,600	24,600	
1-IC-405	6690-UR-119	Sierra Club	6/23/2008	79,200	17,400	
1-IC-394 Supl.	6680-CE-170	Citizens Utility Board	9/17/2008	50,000	50,000	
1-IC-406 Amended	6680-CE-173	Citizens Utility Board	11/14/2008	29,889	29,889	
1-IC-407	05-ES-104	Clean W1	11/20/2008	20,460	10,000	
1-IC-404 Supl.	6690-UR-116	Sierra Club	12/30/2008	11,000	5,500	
1-IC-405 Supl.	6680-UR-119	Sierra Club	12/30/2008	11,000	5,500	
1-IC-408	137-CE-147	Protect our Rural Landscape	1/16/2009	126,360	33,000	
1-IC-409	05-EI-148	RENEW W1	1/29/2009	10,770	8,940	
1-IC-410	05-CE-137	Clean W1 & Citizens Utility Board	2/13/2009	143,075	PENDING	
1-IC-411	05-CE-137	Sierra Club	2/25/2009	125,170	PENDING	
				721,524	184,829	-

BUDGET	\$	750,000
UNALLOCATED REMAINING	\$	565,171
TOTAL PENDING CASES FROM ABOVE	\$	268,245
REMAINING FUNDING IF PENDING APPROVED	\$	296,926